

REMARKS

Claims 1-28 were pending subsequent. Claim 11 has been cancelled and claim 29 has been added. Claims 1, 13 and 20 have been amended. Accordingly, claims 1-10 and 12-29 remain pending subsequent entry of the present amendment.

In the present Office Action, claims 1, 2, 4-5, 11-14, 20-21, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over newly cited references U.S. Patent No. 6,532,593 (hereinafter "Moroney"), in view of U.S. Patent No. 6,744,967 (hereinafter "Kaminski"). In addition, claims 3, 6-7, 15-16, 22-23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moroney, in view of Kaminski, and in further view of U.S. Patent No. 6,449,767 (hereinafter "Krapf"). Claims 8, 17, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moroney and Kaminski, in further view of U.S. Publication No. 2003/0110513 (hereinafter "Plourde"). Finally, claims 9-10, 18-19, and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moroney in view of Kaminski, in further view of U.S. Patent No. 5,577,042 (hereinafter "McGraw") and still in further view of U.S. Publication No. 2002/0104019 (hereinafter "Chatani"). Applicant traverses the above rejections and requests reconsideration in view of the following comments.

While Applicant traverses the rejections as discussed below, Applicant has made certain clarifying amendments to speed prosecution and allowance.

In the rejection of independent claims 1, 12 and 20, Moroney in view of Kaminski is cited as disclosing all the features of the pending claims. However, Applicant believes the claims recite features neither disclosed nor suggested by the combination of cited art. Generally speaking, Moroney simply discloses a set top box which may store data to a hard drive at different quality levels in a manner analogous to that of tape based VCR machines. Compressing data to a more or less degree is performed by a component 427 Moroney calls a (bit rate) transcoder. For example, Moroney discloses:

"Accordingly, it can be seen that the present invention provides a consumer

set-top terminal that receives and stores digital programming services such as television programs for subsequent playback by the user in a manner analogous to a conventional video cassette recorder (VCR). An interface allows a user to control the transcoding based on the desired quality level for the transcoded data, e.g., high, medium or low. By performing transcoding at the terminal, the bit rate of the data can be reduced sufficiently to allow economical storage at the terminal.” (Moroney, col. 8, lines 41-49).

Therefore, Moroney describes adjusting a bit rate of data to be stored on a hard disk. It is noted that all such “formats” (bit rates) are compatible with the hard disk and the question of compatibility is not at issue. In the Office Action, the storage device interface 450 of Moroney is cited as equivalent to the recited interface. The storage device 470 is cited as being equivalent to the recited “secondary device”. Additionally, it is suggested that Moroney discloses the recited features “automatically retrieve the transcode subunit, responsive to the request” in Fig. 5c and col. 8, lines 19-22. However, Applicant finds no transcode subunit retrieval disclosed. Rather, the cited disclosure simply describes selecting a recording quality level. Applicant finds no retrieval and no transcode subunit (which has been retrieved) disclosed. Further, as amended, claim 1 recites the transcode subunit is automatically retrieved from an external entity. There is clearly no such disclosure of these features in the art.

For at least the above reasons, the combination of cited art does not disclose all the features of the independent claims, and claims 1, 12, and 20 are patentably distinguished from the cited art.

In addition, Kaminski is cited as disclosing the recited features “convey a request for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format.” The following portion of Kaminski is cited as disclosing these features:

“In other embodiments, the bit rate can be estimated, and in other embodiments, the PVR application 377 can use the combination of a default value and an estimated value based on monitoring the disk space consumed for downloaded media content.” (Kaminski, col. 24, lines 17-21).

As above, Applicant finds no disclosure regarding a transcode subunit as recited. Rather, there is simply a disclosure of the determination of a bit rate to use. Further, there is no disclosure of “determining the transcode subsystem is not configured to support said target data format.” These features are wholly absent from the cited art.

For at least these additional reasons, each of independent claims 1, 12 and 20 are patentably distinguishable from the combination of cited art.

In view of the above, Applicant submits all pending claims are patentably distinguished from the combination of cited art. In addition, new claim 29 recites features directed to the secondary device which clearly distinguish from the cited art.

Information Disclosure Statements

Applicant submitted Information Disclosure Statements on June 5, 2002 and June 30, 2003. While the Office Action dated May 25, 2006 indicated both were attached, Applicant finds no record of having received them. Additionally, Applicant does not find them on PAIR. Accordingly, Applicant requests a signed copy of each IDS be returned.

Applicant believes the application to be in condition for allowance. However, should the examiner believe issues remain, the below signed representative would appreciate and requests a telephone interview at (512) 853-8866 to facilitate a resolution.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-04300/RDR.

Respectfully submitted,

/ Rory D. Rankin /
Rory D. Rankin
Attorney for Applicant
Reg. No. 47,884

Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 476-1400

Date: April 16, 2007